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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,834	07/21/2003	Scott V. Thomsen	3691-573	4771
23117	7590	09/23/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			BOLDEN, ELIZABETH A	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/622,834	THOMSEN ET AL.	
	Examiner	Art Unit	
	Elizabeth A. Bolden	1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Any rejections and or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

Claim Rejections - 35 USC § 102 and 35 USC § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10-20, and 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boulos et al., US Patent Application Publication U.S. 2004/0102304 A1.

Boulos et al. teach a grey glass composition having overlapping ranges of components as recited in instant claims 1, 2, 4, 5, 7, 13-17, 19, 25-28, and 30. See Abstract and paragraphs [0007] and [0010]-[0012]. Boulos et al. teach a grey glass composition having overlapping ranges of redox ratio, transmittances for Illuminant A, ultraviolet, infrared, and total solar lights, dominant wavelength, and excitation purity as recited in instant claims 1-3, 5, 6, 8, 10-15, 17, 18, 20, 22-26, 28, 29, and 31. See Abstract and paragraphs [0008], [0009], and [0019].

Boulos et al. fails to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional and property limitations of claims 1-8, 10-20, and 22-31.

However, overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

One of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the same color characterization as recited in claims 12 and 24.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges disclosed by the reference because overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05..

Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arbab et al., US Patent Application Publication U.S. 2004/0102304 A1.

Arbab et al. teach a grey glass composition having overlapping ranges of components as recited in instant claims 1, 2, 4, 5, 7, 9, 13-17, 19, 21, 25-28, and 30. See Abstract and paragraphs [0010], [0012], [0014], [0018], [0026], and [0031]. Arbab et al. teach a grey glass composition having overlapping ranges of redox ratio, transmittances for Illuminant A and total solar lights, dominant wavelength, and excitation purity as recited in instant claims 1-3, 5, 6, 8, 10-15, 17, 18, 20, 22-26, 28, 29, 31. See Abstract and paragraphs [0011]-[0012], and [0030].

Arbab et al. fails to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional and property limitations of claims 1-31. However, overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

One of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the same infrared and ultraviolet transmittance and color characterization as recited in claims 13, 14, and 22-25.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges disclosed by the reference because overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

Response to Arguments

Applicant's arguments, see pages 10 and 11, filed 28 June 2005, with respect to the 35 USC 103(a) rejection of claims 13-15, 17-26, and 28-31 over Teyssedre et al., have been fully considered and are persuasive. The rejection of claim(s) 13-15, 17-26, and 28-31 has been withdrawn, since the reference of Teyssedre et al. does not disclose or suggest the absence of nickel oxide from the composition. Furthermore see Applicant's specification page 7, paragraph [0019].

Applicant's arguments filed 28 June 2005 in view of the rejections over Boulos et al. and Arbab et al. have been fully considered but they are not persuasive. Applicants' argue that the reference do not disclose both an IR transmittance less than or equal to 35% and a UV transmittance less than or equal to 40%. However this is not found persuasive since Boulos et al. gives a range that overlaps the instantly claimed IR and UV transmittances. See paragraph [0019] and Tables III to XIV for UV and IR values. Additionally, while Arbab et al. does not state a specific range of the UV and IR transmittances, it is clear from Table 2 that the UV and IR transmittance fall within the range of the instantly recited claims.

Conclusion

The additional references cited on the 892 have been cited as art of interest since they are considered to be cumulative to or less than the art relied upon in the rejections above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 571-272-1363. The examiner can normally be reached on 9:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAB

19 September 2005



KARL GROUP
PRIMARY EXAMINER
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